

DOE/NNSA and Contractor Enforcement Coordinator Workshop

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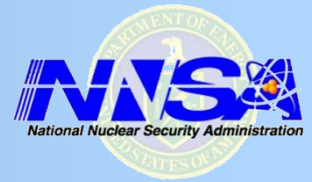
April 6, 2011

Discussion topics



- Governance Model
- CAS
- Update on Directives Revision
- NNSA /DOE Enforcement Approach
- Consent Order/Settlement Agreement Considerations

NNSA Governance Model



Efficient and effective mission accomplishment through:

- Well defined governance model embodied in the contract
- Requirements and standards system that leverage industry and commercial standards
- Clearly defined roles, responsibilities and accountabilities
- Specific and objective metric system tailored to each site by the Contractor Assurance System (CAS)
- Mission support functions in line with industry benchmarks

NNSA Contractor Assurance System



- **Basic Elements of CAS**
 - Continuous Improvement
 - Issue and Corrective Action Management
 - Measures and Assessments
- **For a CAS to be Effective and Fully Functional:**
 - Information is an accurate, reliable and timely indication of performance in areas that impact the safe, secure and effective execution of the mission
 - Managers use the information provided by the CAS as a primary tool to ensure mission objectives and contract requirements are met.
 - CAS is effectively driving performance improvement

CAS Supports NNSA Line Oversight



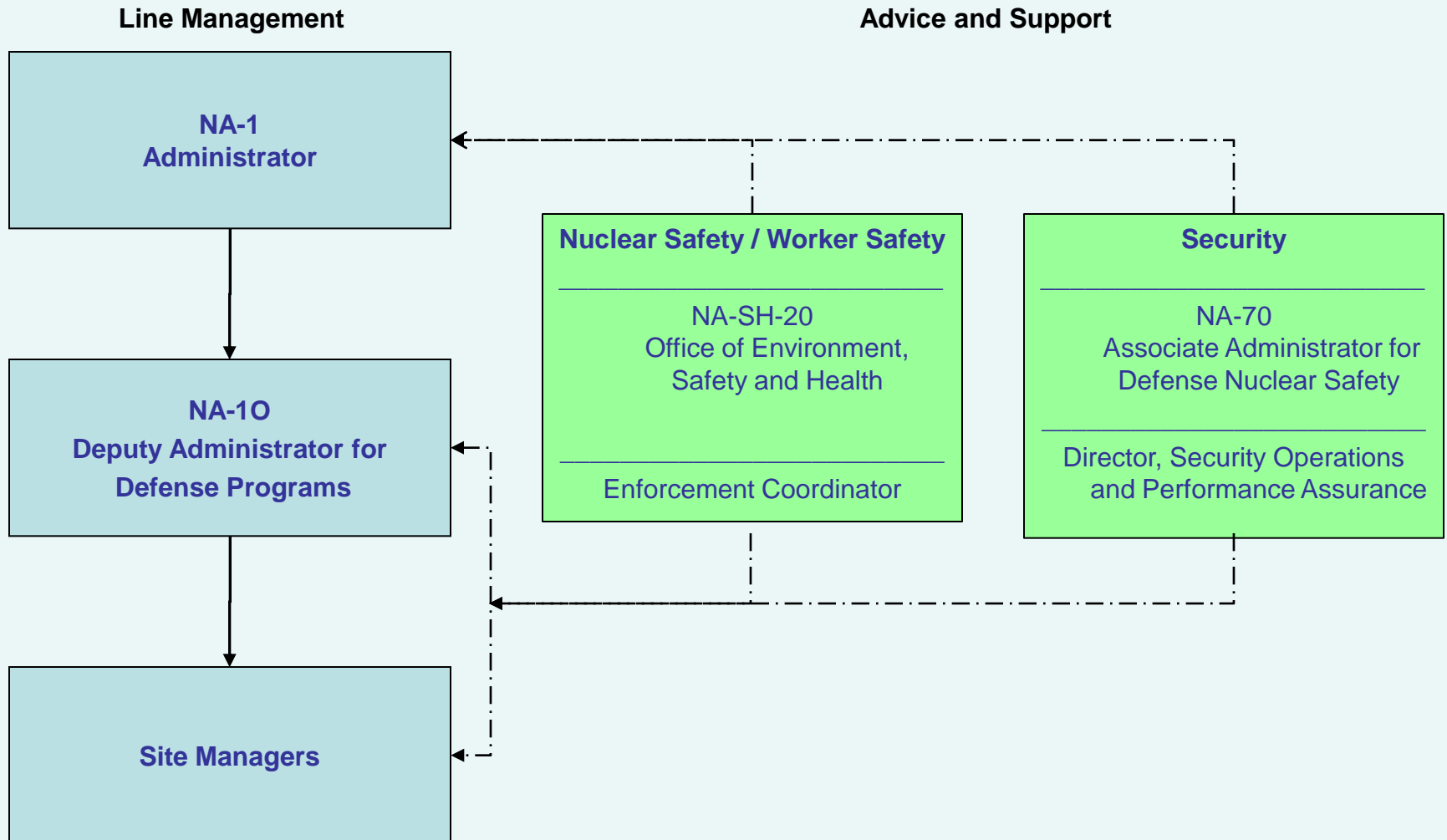
- A fully functional CAS allows NNSA to:
 - Optimize oversight while retaining independent oversight capability
 - Monitor system performance, mission delivery and overall risk management results
 - Monitor improvements to the efficiency and effectiveness of mission delivery
 - Recognize and respond to changes in risk and contractor performance

Directives Revision



- NNSA conducted requirements analysis of 26 directives during CY 2010
- Developed Enterprise Order Requirements Review Board (EORRB) process for coordinating and consolidating NNSA comments into RevCom with requirements analysis
- Building on the NNSA effort, the HSS Directives Revision rejuvenated with aggressive schedule (eight month goal established by Deputy Secretary)
- Six of seven priority directives reviews completed through EORRB & RevCom
- EORRB adopted for continuing use in Directives Revision
- EORRB approach facilitates comment resolution for HSS

NNSA Enforcement



Regulatory Oversight and Enforcement



- Support line management's efforts to affect the conduct and priorities of their contractors
- Focus on safety performance
- Prioritize actions against contractors with poor safety records and serious or recurring violations
- Apply approaches and penalties consistent with those employed by other regulators

NNSA/HSS Enforcement Approach



- Early communication on emerging issues
- Enforcement actions complement existing management remedies to redirect behavior
 - Coordination on selection use of fines or fee reductions
- Ensuring the public trust – enforcement actions will be taken when appropriate to protect worker safety and the public

Consent Orders/Settlement Agreements



- For nuclear safety and worker safety and health matters, contractors are provided opportunities to seek settlement with DOE through a Consent Order for a noncompliance that could have proceeded to an investigation and possible NOV (Security matters may be resolved with a Settlement Agreement)
- A Consent Order is a document, signed by both DOE and a contractor, containing stipulations or conclusions of fact or law, and a remedy acceptable to both DOE and the contractor
- Normally, there is no press release for a Consent Order

HSS Guidance on Consent Orders



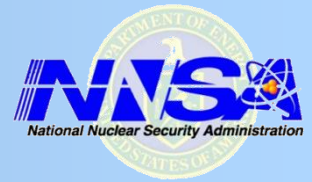
- NNSA /DOE must have a level of confidence, developed over time, in the contractor's senior management and their ability to effectively implement safety and security programs and investigate specific noncompliance issues
- The contractor's specific investigation into the noncompliance must be thorough and credible, and the developed corrective actions must be comprehensive in scope and appear adequate to prevent recurrence
- Issuance of the consent order must provide a positive benefit to NNSA/DOE. This benefit is typically realized through a reduction in the level of personnel resources required to investigate the noncompliances, and an overall expedited enforcement process

Additional Considerations for NNSA Consent Orders



- A Consent Order is not appropriate where a recent (within the last two years) enforcement action addressed the same or very similar issues.
- A Consent Order is not appropriate where an event resulted in severe consequences (e.g. death, serious injury, extensive property damage, major releases to the environment)
- Site Office Management will participate in every phase of the enforcement process including consideration of Consent Orders.

Consent Order Requests



- It is in the contractor's best interest to submit its request for a consent order as early as possible. If DOE has already expended significant resources in the independent investigation of an issue, it is less likely to receive a positive benefit from issuing a consent order.
- Consent order requests should be made in writing to the Director of Enforcement and should include the contractor's justification as to why a consent order is appropriate in the particular instance, including the planned corrective action approach.
- The contractor's investigation/causal analysis should always be provided; additional documentation may be requested to aid in deliberations

Next Steps?

